

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

**RECOVERY LIMITED PARTNERSHIP,
Plaintiff,**

v.

Civil Action No.: 2:87-cv-00363

**UNIDENTIFIED, WRECKED AND ABANDONED
SAILING VESSEL, etc.,
Defendant.**

MEMORANDUM IN SUPPORT OF MOTION TO FILE UNDER SEAL

Recovery Limited Partnership (the “Plaintiff” or “RLP”), by counsel, submits this memorandum in support of its motion to seal Exhibit 1, attached hereto. Exhibit 1 is a Declaration of Craig T. Mullen. The Court has directed RLP to file information concerning 2024 salvage operations, and the agreement between RLP and Eclipse Group, Inc., under seal for review. *See* Order, D.E. 305.

There are three requirements for sealing court filings: (1) public notice with opportunity to object; (2) consideration of less drastic alternatives; and (3) a statement of specific findings in support of a decision to seal and reject alternatives to sealing. *Flexible Benefits Council v. Feldman*, No. 1:08-CV-371, 2008 U.S. Dist. LEXIS 93039 (E.D. Va. Nov. 13, 2008) (citing *Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 288 (4th Cir. 2000)). Even when no party challenges a motion to seal, the Court must still ensure the motion is supported by good cause. *Auburn Univ. v. IBM Corp.*, No. 3:0-cv-694-MEF, unpublished, 2010 WL 3927737 (M.D. Ala. Oct. 4, 2010).

Mr. Mullen has been retained by the Trustee of the RLP Trust to serve as the scientific and salvage advisor for any future salvage. In 2023, he solicited salvage proposals from several professional salvor companies with the expertise to perform deep ocean salvage of historic ship

wrecks. On his recommendation, Eclipse Group, Inc. has been selected by the Trustee for further salvage work.

The information contained in Exhibit 1, and its attachments, contains sensitive commercial information that is confidential in nature for RLP and Eclipse Group, Inc. Specifically, it discloses proprietary information about the wreck site, and the specific plans for further exploring it, including required technical talent and equipment. The agreement and plan furnished by Eclipse is designated confidential to protect Eclipse's trade secrets and competitive advantages. Additionally, the conditions at the wreck site and plans for future salvage are highly proprietary information known only to RLP and its salvors, who are subject to non-disclosure agreements. While any intrusion by third parties at the wreck site would violate the injunction granted by this Court, keeping such information under seal is essential to keeping the information out of the hands of third parties and minimizing the risk of a violation.

RLP is contemporaneously filing with this motion a notice of filing under seal which is the required public notice providing opportunity for objection. RLP submits that, given the commercial interests at stake, there is no "less drastic alternative" to the sealed filing that the Court has ordered.

Accordingly, RLP moves that this Court enter the proposed order attached to the motion sealing Exhibit 1 to remain sealed in accordance with the terms of the proposed order.

This 31st day of January, 2024.

/s/ James L. Chapman, IV
James L. Chapman, IV, Esquire (VS. No. 21983)
CRENSHAW, WARE & MARTIN, PLC.
150 West Main Street, Suite 1923
Norfolk, Virginia 23510
Telephone: (757) 623-3000
Facsimile: (757) 623-5735
jchapman@cwm-law.com

Conrad M. Shumadine (VS. No. 4325)
Brett A. Spain (VS. No. 44567)
WILLCOX & SAVAGE, P.C.
440 Monticello Avenue, Suite 2200
Norfolk, Virginia 23510
Telephone: (757) 628-5500
Facsimile: (757) 628-5569
cshumadine@wilsav.com
bspain@wilsav.com
Counsel for Recovery Limited Partnership

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of January, 2024, a true and accurate copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing to all registered filers.

/s/ James L. Chapman, IV
James L. Chapman, IV, Esquire (VS. No. 21983)
Counsel for Recovery Limited Partnership
CRENSHAW, WARE & MARTIN, PLC.
150 West Main Street, Suite 1923
Norfolk, Virginia 23510
Telephone: (757) 623-3000
Facsimile: (757) 623-5735
jchapman@cwm-law.com